

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BARRETTE OUTDOOR LIVING, INC.,
also d/b/a/ U.S. FENCE INC.,

Plaintiff,

v.

MICHIGAN RESIN REPRESENTATIVES, LLC,
a Michigan Limited Liability Company; JOHN H.
LEMANSKI, JR., an individual; LISA J. WELLS
a/k/a LISA J. LEMANSKI, an individual; and
TAMARA L. TURNER, an individual,

Defendants.

Civil Docket No. 2:11-cv-13335
Honorable Julian A. Cook
Magistrate Judge Laurie J. Michelson

AARON O. MATTHEWS (P64744)
MICHAEL JOHN PATTWELL (P72419)
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Attorneys for Plaintiff

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MICHIGAN RESIN REPRESENTATIVES,
LLC, c/o TAMARA L. TURNER
8312 Honeytree Blvd.
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Defendant

TAMARA L. TURNER
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Defendant

LISA WELLS
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Canton, Michigan 48187
Defendant

**MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.'S MOTION TO
WITHDRAW AS COUNSEL FOR DEFENDANT JOHN H. LEMANSKI JR.
AND BRIEF IN SUPPORT**

The law firm Miller, Canfield, Paddock and Stone, P.L.C. ("Miller Canfield"),
moves under Eastern District of Michigan Local Rule 88.30 to withdraw as counsel of

record for Defendant John H. Lemanski Jr. (Lemanski) in the above-captioned matter for the following reasons:

1. There has been a breakdown in communications between counsel of record and Lemanski.
2. Lemanski has failed to comply with the terms of the Engagement Letter and the Standard Terms of Engagement governing the relationship between Lemanski and Defendant's counsel of record in this matter.
3. Counsel for Lemanski notified Plaintiff's counsel on June 27, 2013 of their intent to withdraw prior to filing this Motion, and as of the time of preparing this Motion Plaintiff's counsel has not indicated that Plaintiff will oppose this Motion.
4. Counsel for Lemanski has also notified Lemanski of the intent to move to withdraw as counsel and his need to obtain other counsel.

For these reasons and those set forth in its Brief in Support, counsel respectfully requests that the Court grant this Motion to Withdraw as Counsel.

Respectfully submitted,

s/ Robert J. Morad (P56475)

Robert J. Morad (P56475)

Abdu H. Murray (P61032)

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Troy, Michigan 48098

Attorneys for Defendant John H. Lemanski, Jr.

Dated: June 28, 2013

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Defendant

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Canton, Michigan 48187
Defendant

**BRIEF IN SUPPORT OF MILLER, CANFIELD, PADDOCK AND STONE,
P.L.C'S MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT JOHN H.
LEMANSKI JR AND BRIEF IN SUPPORT**

STATEMENT OF ISSUES PRESENTED

May Defendant's counsel of record withdraw as counsel of record when (1) there has been a breakdown in communication between counsel of record and Defendant precluding counsel of record from being able to effectively represent Defendant and (2) Defendant has failed to comply with the terms of the Engagement Letter and the Standard Terms of Engagement governing the relationship between Defendant and counsel of record?

Answer: "Yes"

CONTROLLING AUTHORITY

Michigan Rule of Professional Conduct 1.16(a), (b)

STATEMENT OF FACTS

There has been a breakdown of communication between counsel and Lemanski, to the point where counsel cannot effectively represent Lemanski. Additionally, Lemanski has failed to comply with the terms of the Engagement Letter and the Standard Terms of Engagement governing the relationship between Lemanski and counsel by, among other things, failing to timely pay for counsel's rendered services. Michigan Rule of Professional Conduct 1.16 permits a lawyer to withdraw as counsel of record if "the representation will result in an unreasonable financial burden on the lawyer," and *requires* a lawyer to withdraw if "the lawyer is discharged." MRPC 1.16(b)(5); MRPC 1.16(a)(3).

Lemanski's failure to adequately communicate with his counsel, together with his failure to pay invoices for services rendered, is tantamount to a virtual discharge of counsel. Counsel has put Plaintiff on notice that, under these circumstances, this Motion to Withdraw would be filed.

In addition, any continued representation in this case would prove a financial hardship to defense counsel. *See, e.g., In re Withdrawal of Attorney*, 234 Mich. App. 421, 435 (1999) (the availability of attorney fees is a proper consideration in weighing the financial burden on counsel). Given these concerns, it is appropriate for the Court to permit defense counsel to withdraw from this case.

CONCLUSION

For the reasons stated above, Defendant's counsel of record, Miller, Canfield, Paddock and Stone, P.L.C., by Robert J. Morad and Abdu H. Murray, respectfully

requests that the Court grant this motion to withdraw as defense counsel and enter the accompanying order of withdrawal.

Respectfully submitted,

s/ Robert J. Morad (P56475)

Robert J. Morad (P56475)

Abdu H. Murray (P61032)

Miller, Canfield, Paddock and Stone, P.L.C.

840 West Long Lake Road, Suite 200

Troy, Michigan 48098

Attorneys for Defendant John H. Lemanski, Jr.

Dated: June 28, 2013

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2013, I electronically filed the foregoing paper with the Clerk of the court using the ECF system which will send notification of such filing to the counsel of record.

- **Jordan S. Bolton**
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- **Aaron O. Matthews**
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- **Abdu H. Murray**
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- **Michael J. Pattwell**
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I also hereby certify that I have also mailed by United States Postal Service the foregoing document to the following non-ECF participants:

Michigan Resin Representatives, LLC
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8312 Honey Tree
Canton, MI 48107

Tamara Turner
8312 Honey Tree
Canton, MI 48107

Lisa J. Wells
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Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: s/Robert J. Morad
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